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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3890 OF 2007

Municipal Corporation of
Greater Mumbai ... Petitioner

V/s.

R.M. Bandiwadekar ... Respondent

Mr.P.M. Palshikar for Petitioner
Mr.S. Shah for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 8, 2007**

P.C.:

. The issue which arises in this petition is whether the complaint filed by the respondent workman is maintainable before the Industrial Court. According to the petitioners, the services of the respondent workman have been terminated by an order dated 19.10.2006 which was served on the Respondent workman on the same day. A complaint was filed by the respondent workman under Items 5, 6, 9 and 10 of Schedule IV of the MRTU & PULP Act. In that complaint, the respondent workman has not mentioned that his services were terminated by the order of 19.10.2006. The affidavit filed by the respondent in reply to the application for interim relief discloses this fact that the services of the respondent were terminated on 19.10.2006. Thus, the Industrial Court would have to determine as to whether it has

jurisdiction to entertain the complaint. It would also have to determine whether the order of 19.10.2006 has taken effect and whether the respondent workman having signed the muster rolls, would amount to the petitioner revoking the order of termination.

2. By way of interim relief, the Industrial Court had directed the petitioners to deposit wages from October 2006 to March 2007 in Court since it was the case of the respondent workman that he was not paid for that period. It appears that this amount has been withdrawn by the respondent workman after it was deposited. The Industrial Court has also directed the petitioner to continue the respondent workman in the post of PC Operator and to pay him wages till the decision of the complaint on merits.

3. In my view, this order cannot be sustained as there is no decision of the Industrial Court as to whether it has jurisdiction to decide the complaint in view of the order dated 19.10.2006.

4. Hence, the following order:

i) The impugned order is set aside.

ii) The Industrial Court will determine whether

it has jurisdiction to entertain the complaint filed under Items 5,6,9 and 10 of Schedule IV inspite of the order dated 19.10.2006.

iii) If it is held that the Industrial Court does have jurisdiction, the Industrial Court will decide whether the respondent-workman is entitled to any interim relief in the matter.

iv) This decision must be taken by the Industrial Court within two months front today. During this period, if the respondent workman reports for work, he may be permitted to do work.

v) However, his wages will be deposited in the Industrial Court. The respondent workman shall not be permitted to withdraw these wages till the Industrial Court concludes whether it has jurisdiction and whether the respondent workman is entitled to any interim relief.

vi) The Industrial Court will consider while deciding the issue of jurisdiction the effect of orders, if any, passed by the Corporation in favour of the respondent workman subsequent to

19.10.2006.

5. Petition is disposed of accordingly.